

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASSIE CORDELL TRUEBLOOD, next
friend of A.B., an incapacitated person, et al.,
Plaintiffs,

v.

THE WASHINGTON STATE
DEPARTMENT OF SOCIAL AND HEALTH
SERVICES, et al.,

Defendants.

NO. C14-1178 MJP

DEFENDANTS' MOTION TO
MODIFY THE INJUNCTION

**Note on Motion Calendar:
January 15, 2016**

Since trial, the State has undertaken extraordinary efforts to improve its forensic competency system. The Washington State Legislature dramatically increased funding to the State's mental health system, particularly for competency evaluation and restoration services. With \$41 million in new forensic funding, the Department of Social and Health Services (Department) has worked tirelessly to enhance and expand programs, staffing, and facilities, all with the goal of expediting forensic evaluations and restorations. The Department is moving diligently towards compliance with the Court's order. However, despite the Department's efforts, recent significant factual changes related to enforcement action by the Centers for Medicare & Medicaid Services (CMS) combined with ongoing implementation challenges make it necessary for the Department to seek a modification to the Court's injunctive order. The Department requests a narrow modification only to the deadline for compliance with this Court's April 2, 2015 order. Because the Department has made diligent compliance efforts and

1 has tangible plans in place to achieve compliance, but now faces significant factual changes
 2 that require extension of the Court's original deadline, the Department respectfully requests
 3 that the compliance deadline be extended to May 27, 2016.

4 **I. STATEMENT OF FACTS**

5 In April 2015, this Court issued an order requiring the Department to complete
 6 competency evaluations within seven days or transfer the criminal defendant to a state hospital,
 7 as well as to admit competency restoration patients within seven days of a court order for
 8 restoration. ECF No. 131, at 22. The Court ordered that the Department achieve this "as soon
 9 as practicable, but no later than nine months from the date of this order." ECF No. 131, at 22. At
 10 that time, the Department asked the Court to reconsider several points related to the Court's order,
 11 and the Court indicated that until efforts had been made to achieve compliance, any modification
 12 of the injunction was premature. ECF No. 153, at 3.

13 Since the Court's April order, the Department has made significant efforts to achieve
 14 compliance. "Washington State and DSHS have made progress through a number of concrete
 15 actions in passing the Biennium Budget, hiring personnel, renovating ward space, initiating
 16 procurements, and engaging intergovernmental actors toward improved performance of
 17 competency services. These are essential investments in the infrastructure and resources needed
 18 to provide class members with relief." ECF No. 171, at 23 (Court Monitor's First Quarterly
 19 Report). However, the Department has also faced a significant change in factual circumstances
 20 due to enforcement action by CMS, which required the Department to adapt its plans.

21 **A. The Department Has Made Diligent And Good Faith Efforts To Achieve** 22 **Compliance**

23 The Department has worked tirelessly to develop and implement short-term, long-term,
 24 and creative solutions to alleviate the compounding stress on the forensic mental health system.
 25 Declaration of Carla Reyes (Decl. Reyes), ¶ 3. In her first assessment of the Department's
 26 efforts, the Court Monitor wrote that "Washington State and DSHS are to be commended for

1 making considerable progress in taking steps to leverage executive and legislative authority to
 2 provide budgetary and administrative resources designed to secure higher staffing and bed
 3 levels with the intent of meeting the seven-day time frames in January of 2016.” ECF No. 171,
 4 at 23. The efforts made by the Department over the last nine months are detailed in the
 5 monthly reports filed with the Court Monitor. *See* ECF No. 171, at 53-269; Declaration of
 6 Victoria Roberts (Decl. Roberts), Attach A-E.¹ The actions detailed in these reports
 7 demonstrate that the Department is pursuing multiple strategies with the goal of reaching
 8 compliance “as soon as is practicable”. ECF No. 131, at 22. These actions have been focused
 9 in four main areas: staffing, systemic changes, bed space, and safety. Decl. Reyes ¶ 3.

10 The Department has aggressively implemented and pursued increases in compensation
 11 for various job classes in an effort to bolster staffing. Decl. Reyes ¶ 4. In 2015 alone, the
 12 Department has increased pay and compensation on several occasions. *Id.* Recruitment efforts
 13 have been expanded and redoubled. These efforts include advertising open positions in
 14 national professional publications, opening a “recruitment center” on the WSH campus, and
 15 extensively promoting and then holding hiring events in Spokane and Tacoma, Dec. Rep. at
 16 19-20; Nov. Rep. at 16. The Department also now offers a monetary referral bonus to current
 17 employees who refer a successful hire. Nov. Rep. at 16; Decl. Reyes ¶ 4. The Department
 18 continues to hire new staff to fill the ranks of the newly formed Office of Forensic Services.
 19 Dec. Rep. at 19; Nov. Rep. at 22. The Department also has begun work with the Department
 20 of Health to create a new certification for forensic evaluators. Dec. Rep. at 23. However, the
 21 Department continues to struggle to fill critical positions within the state hospitals, which
 22 restricts its ability to open new beds and creates a need for more time to pursue these efforts.
 23 Decl. Reyes, ¶ 4. For example, even though starting salaries for ward psychiatrists now
 24

25 ¹ The following monthly reports to the Court Monitor have not been submitted to the Court, and are
 26 included as: Attach A: August 2015 Report (Aug. Rep.); Attach B: September 2015 Report (Sep. Rep.); Attach C:
 October 2015 Report (Oct. Rep.); Attach D: November 2015 Report (Nov. Rep.); Attach E: December 2015
 Report (Dec. Rep.)

1 surpass \$197,000, not including other benefits and compensation increases, vacancies in these
 2 critical positions persist. Decl. Roberts ¶ 12. The Department is preparing for the upcoming
 3 2016 legislative session and developing requests for increased pay and other benefits for
 4 psychiatrists, psychiatric social workers, psychologists, and registered nurses. Oct. Rep. at 24;
 5 Decl. Reyes ¶ 4. In the most recent budget proposal released on December 17, 2015, the
 6 Governor has supported the Department's efforts, proposing multiple new allocations to the
 7 state hospitals and mental health services.²

8 The Department has met with success in hiring forensic evaluators. Based on modeling
 9 and projections, the Department determined that 13 additional evaluators were necessary to
 10 eliminate the current evaluation waitlist and maintain compliance into the future. Decl. Reyes
 11 ¶ 5. To date, 11 of 13 forensic evaluators have been hired. *Id.* Hiring efforts continue. *Id.*
 12 Out-stationing of evaluators has allowed the Department to target high volume counties and
 13 jails. The Department has dedicated evaluators to the Snohomish County Jail, Dec. Rep. at 20,
 14 and the SCORE facility in King County. Nov. Rep. at 17. The Department has also secured
 15 regularly scheduled space at several high volume jails for the purpose of conducting
 16 evaluations. Nov. Rep. at 17. Regularly scheduled visits by evaluators have been piloted in
 17 Kitsap, Yakima, and Lewis counties. Dec. Rep. at 28. As the new evaluators reach their
 18 anticipated productivity, the Department expects to see dramatic and persistent decreases in
 19 wait times for evaluations, although the anticipated results may not be completed by January 2,
 20 2016. Decl. Reyes ¶ 5.

21 The Department has also worked with the Legislature and other stakeholders to address
 22 issues outside the Department's direct control and to effect systemic change. Decl. Reyes ¶ 6.
 23 These efforts resulted in legislation that imposes timelines on important system partners in the
 24 competency process, e.g., requiring documents and court orders to be transmitted within 24
 25 hours, requiring jails to provide transport within one day, and requiring jails to provide

26 ² Available at http://www.ofm.wa.gov/budget16/highlights/2016_Highlights_HumanServices.pdf

1 “reasonable, timely, and appropriate access to” defendants in jail. Wash. Rev. Code §§
 2 10.77.075, .078. The Department also hired a Diversion and County Liaison Specialist to build
 3 rapport and overcome obstacles with community partners and stakeholders to improve the
 4 timeliness of competency services. Decl. Reyes ¶ 7. Among other successes, this position is
 5 helping to promote the use of contracted panel evaluations in communities. *Id.* Further, the
 6 Administrative Office of the Courts has worked with community stakeholders to develop
 7 pattern competency orders for use by Washington’s Superior, District, and Municipal Courts.
 8 Declaration of Amber Leaders (Decl. Leaders) ¶ 2. Those orders are currently being reviewed
 9 by Washington’s Pattern Forms Committee. Decl. Leaders ¶ 3.

10 The 2015 legislative budget allocation provided for 90 additional competency
 11 restoration beds. Decl. Reyes ¶ 9. As outlined in the Department’s monthly reports and the
 12 long term plan, the Department projected that 90 additional forensic beds will reduce the
 13 backlog and bring the competency restoration wait times into substantial compliance with the
 14 court-ordered seven day timeline. *Id.* The Department’s plan to open at least 90 new
 15 competency restoration beds has not changed. *Id.* The Department’s monthly reports and
 16 long-term plan detail the changes required to open these beds. Decl. Reyes ¶ 10. As of
 17 September 2015, the plan included opening 30 beds at Eastern State Hospital (ESH), 45 beds at
 18 Western State Hospital (WSH), and up to 24 beds in a contracted facility at the Yakima County
 19 Corrections Center, totaling 99 beds, higher than the projected need. *Id.* As of December
 20 2015, five beds had opened at ESH, and ten more will open by January 2, 2016. *Id.* The
 21 remaining 15 beds at ESH are ready to open but require filling a vacant psychiatrist and
 22 associated nursing positions. *Id.* At WSH, six beds were opened, and the Department
 23 anticipates opening an additional nine beds in January of 2016. *Id.* Up to 24 beds will open in
 24 Yakima on March 1, 2016. *Id.* The remaining 30 beds at WSH will still be opened, but are
 25 currently on hold due to the issues with CMS, detailed below. *Id.* Thirty beds will open at
 26 Maple Lane School in April 2016 to account for the 30 beds on pause at WSH. *Id.*

1 All of the physical construction is complete for ward expansion at both ESH and WSH.
 2 Decl. Reyes ¶ 12. However, staffing challenges coupled with recent enforcement actions by
 3 CMS forced the Department to change the timetable for opening beds at WSH and to consider
 4 other avenues for providing those beds. *Id.*

5 **B. Recent And Significant Factual Changes Require The Department To Change Its**
 6 **Plans**

7 Recent unexpected developments required the Department to change its plans to reach
 8 compliance. On October 26, 2015, two survey teams from CMS arrived at WSH to investigate
 9 allegations regarding patient and staff safety. Decl. Reyes ¶ 13. The visits resulted in the
 10 issuance of six notices of immediate jeopardy requiring the Department to take immediate
 11 steps to abate multiple concerns. *Id.* Immediate action was required to maintain certification
 12 and \$64 million per year in federal funding for the hospital. *Id.* The Department was able to
 13 abate the immediacy of the deficiencies on November 24, 2015, but work continues to ensure a
 14 safe and therapeutic hospital. The Department must correct the additional deficiencies
 15 identified by CMS. *Id.*; Decl. Roberts Attach K. Plans of Correction were submitted to CMS
 16 on December 14, 2015. Decl. Reyes ¶ 13. CMS has given the Department until March 1,
 17 2016, to come into compliance with the conditions of participation or again risk losing its
 18 certification and federal funding. *Id.*

19 Critical areas requiring immediate action include the development of a quality
 20 assessment and performance improvement program; patient and staff protection from
 21 immediate harm; provision of care in a safe setting; recruitment of qualified, well-trained staff;
 22 appropriate use of seclusion and restraint; and improvement of infection controls. *Id.* The
 23 Department must resolve these critical safety issues before completing expansion of new wards
 24 at WSH. *Id.* Pausing ward expansion is a necessary part of this effort. Decl. Roberts Attaches.
 25 G and H.
 26

1 The Department is devoting great attention and effort to providing a safe environment
 2 for patients and staff; improving quality of care; addressing CMS concerns; and ensuring
 3 ongoing federal certification and funding in order to continue providing mental health services
 4 to Washington's most in-need citizens. Decl. Reyes ¶ 14. More important than the federal
 5 certification and funding is the need to address issues of safety and security for both patients
 6 and staff while preserving the therapeutic environment of the state hospital. *Id.* Expanding
 7 capacity by another 60 beds³ without adequately trained staff will exacerbate the problems this
 8 Court is concerned about and risk the therapeutic environment for all patients, not just those
 9 awaiting competency services. *Id.* The safety of class members, current patients at the
 10 hospital, and the staff who serve and treat them would be put in jeopardy. *Id.* Addressing
 11 these needs requires difficult choices, including pausing some of the planned expansion of
 12 WSH for both forensic and civil beds. *Id.*

13 While WSH's expansion of a civil and a forensic ward is on pause, the Department will
 14 provide up to 30 beds at Maple Lane. Decl. Reyes ¶ 15. In preparation for such a contingency,
 15 the Department laid the groundwork for Maple Lane early, including the initiation of
 16 permitting and labor processes. *Id.* The Department also implemented statutory changes that
 17 allow competency restoration to occur outside of the state hospitals. *Id.*; see Wash. Rev. Code
 18 §§ 10.77.086(1)(a)(i)(B); .088(1)(a)(ii). This planning will allow the Department to open
 19 Maple Lane in April 2016, instead of much later in 2016 had the Department not undertaken
 20 this contingency planning. *Id.*

21 As part of the Department's plan to bring on additional resources as soon as possible,
 22 the Department has contracted for the provision of restoration services at Maple Lane and
 23 Yakima. Decl. Reyes ¶ 16. At Maple Lane, a hybrid model including state employees and
 24 contracted employees will be used. *Id.* The Department has oversight and authority over these
 25

26 ³ These sixty beds are comprised of 30 beds for forensic patients, and 30 beds for civil patients. See Decl. Reyes ¶ 14.

1 programs, and has been responsive to suggestions of the Court Monitor, and her expert
 2 consultant, Dr. Pinals, regarding the preparation of these facilities for the delivery of services.
 3 *Id.* The Department considered and incorporated the feedback provided by both Dr. Mauch
 4 and Dr. Pinals into planning efforts. *Id.*

5 The Department has tangible plans in place to reach substantial compliance. Decl.
 6 Reyes ¶ 18. These plans include the opening of competency restoration beds at Yakima and
 7 Maple Lane, the continued recruitment of evaluators and hospital staff, and continued outreach
 8 and coordination with system partners. *Id.* These efforts are funded, and the Department has
 9 made much tangible progress. *Id.* The Department will continue to work with the treatment
 10 contractors at Maple Lane and Yakima, complete renovation of those facilities, continue to
 11 pursue aggressive recruitment and retention measures (such as increasing salaries, assignment
 12 pay and signing bonuses), and continue to work and collaborate with our system partners. *Id.*
 13 The Department is confident it can reach substantial compliance by completing these plans. *Id.*
 14 The additional time necessary to complete these plans supports modification of the injunction.

15 II. ARGUMENT

16 A. Modification Of The Permanent Injunction Is Warranted

17 Courts have the inherent power to “to modify or vacate the prospective effect of their
 18 decrees[.]” *Bellevue Manor Assoc. v. United States*, 165 F.3d 1249, 1252 (9th Cir.1999)
 19 (citing to *United States v. Swift & Co.*, 286 U.S. 106, 114 (1932)). This power is codified in
 20 Fed. R. Civ. P. 60. The rule provides, in part:

21 (b) On motion and just terms, the court may relieve a party or its legal
 22 representative from a final judgment, order, or proceeding for the following
 reasons:

23 . . .

24 (5) the judgment has been satisfied, released or discharged; it is based on
 an earlier judgment that has been reversed or vacated; or applying it
 prospectively is no longer equitable; or

25 (6) any other reason that justifies relief.
 26

1 Fed. R. Civ. P. 60(b). When modifying an injunctive order the relevant inquiry “asks only
 2 whether ‘a significant change either in factual conditions or in law’ renders continued
 3 enforcement of the judgment ‘detrimental to the public interest.’ ” *Horne v. Flores*, 557 U.S.
 4 433, 453, (2009) (internal quotations to *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367,
 5 384 (1992)).

6 The party seeking relief bears the burden of establishing that changed circumstances
 7 warrant relief, *Rufo*, 502 U.S. at 383, but once a party carries this burden, a court abuses its
 8 discretion “when it refuses to modify an injunction or consent decree in light of such changes.”
 9 *Agostini v. Felton*, 521 U.S. 203, 215 (1997); *see also Horne*, 557 U.S. at 447. This standard is
 10 “flexible,” and courts should take into account all of the circumstances in determining whether
 11 to modify or vacate a prior injunction. *Horne*, 557 U.S. at 450; *Bellevue Manor Assocs. v.*
 12 *United States*, 165 F.3d 1249, 1256 (9th Cir. 1999). Flexibility is particularly important in
 13 institutional reform litigation, where the public interest is paramount. *Horne*, 557 U.S. at
 14 447-48. Once a court has determined that changed circumstances warrant a modification, “the
 15 focus should be on whether the proposed modification is tailored to resolve the problems
 16 created by the change in circumstances.” *Rufo*, 502 U.S. at 391.

17 **B. Significant Factual Changes Require Modification**

18 The enforcement action by CMS constitutes a significant change in factual
 19 circumstances. The Supreme Court has provided a non-exhaustive list of changes in factual
 20 conditions that warrant modification of a decree: (1) when “changed factual conditions make
 21 compliance with the decree substantially more onerous,” (2) when “a decree proves to be
 22 unworkable because of unforeseen obstacles,” or (3) when “enforcement would be detrimental
 23 to the public interest.” *Rufo*, 502 U.S. at 384-85. All of these factors are present here.

24 The unexpected enforcement action by CMS created a serious new challenge for the
 25 Department and made complying with this Court’s order by January 2 unworkable. The CMS
 26 survey teams found that “there was high risk of serious harm, injury, and death due to the

1 extent of the deficiencies.” Decl. Roberts Attach. J at 1. Immediate action was required to
 2 address the deficiencies. Decl. Roberts Attach. F. Because “insufficient numbers of trained
 3 and competent patient care staff” were cited as a deficiency by CMS, the hospital was forced
 4 to redeploy staff from new wards into vacant positions on existing wards. Decl. Roberts
 5 Attachs. F, G, and H. This required suspension of the forensic ward expansion and the
 6 closing of an already open civil ward. Decl. Roberts Attachs. G and H. CMS accepted these
 7 actions and agreed that all of the conditions creating immediate jeopardy had been resolved.
 8 Decl. Roberts ¶ 7; *see* Attach. K at 2. However, CMS also clearly stated that “condition level
 9 deficiencies remained” and “[u]nless [the hospital] corrects its deficiencies and CMS can
 10 verify a return to compliance by 11:59 pm on March 1, 2016, the Secretary of the Department
 11 of Health and Human Services will terminate its provider agreement with Western.” Decl.
 12 Roberts Attach. K. To avoid termination and loss of \$64 million in federal funds, plans to
 13 open additional wards at the state hospital must be modified.

14 The fact that the Department has made significant efforts to overcome implementation
 15 challenges weighs in favor of modifying the injunction. Since the Court’s order in April, the
 16 Department has expended considerable effort and taken concrete steps towards providing
 17 timely competency services, including securing substantial funding increases from the
 18 Legislature. However, tackling the persistent implementation challenges inherent in turning
 19 funds into beds and services warrants additional time. For example, as discussed above,
 20 despite significant compensation increases, the use of professional recruiters, and extensive
 21 hiring efforts, the Department has not yet hired enough staff to open the beds that have been
 22 renovated and made ready. In response, the Department is pursuing additional compensation
 23 increases in the upcoming legislative session and continues its diligent efforts to fill the
 24 vacancies. The Department is not ignoring the responsibility of complying with the Court’s
 25 order or sitting idly by in the face of challenges, but is instead working as hard and as fast as it
 26 can to implement a durable solution.

1 **C. Modification Is Required By The Public Interest**

2 Enforcement of the injunction without modification would also be detrimental to the
 3 public interest. Unfortunately, because unplanned delays such as the recent CMS findings at
 4 WSH require the Department to pursue beds in an alternate location, it is clear the seven-day
 5 standard will not be met by January 2, 2016. *Id.* If patients were to be admitted to WSH
 6 before adequately trained and competent staff can be deployed, and before CMS's safety and
 7 quality-of-care concerns can be addressed, the problems this Court is concerned about will be
 8 exacerbated. *Id.* Such action would endanger the therapeutic environment for all patients, not
 9 just those awaiting competency services. *Id.* The safety of class members, current patients at
 10 the hospital, and the staff who serve and treat them would be put in jeopardy. *Id.* The loss of
 11 over \$64 million in federal funding would severely and negatively impact the Department's
 12 ability to provide mental health services to all the populations it serves, including class
 13 members. The injunction should be modified to avoid these severe harms. Doing so will allow
 14 the Department to provide appropriate care for all patients, and as new beds open over the next
 15 several months, restoration wait times will decline significantly. Decl. Reyes ¶ 17.

16 **D. The Modification Is Limited And Narrowly Tailored To The Changed**
 17 **Circumstances**

18 The amount of time requested by the Department is directly related to the plan to open
 19 alternative beds at Maple Lane. After the Maple Lane facility opens in April, the Department
 20 will incrementally admit restoration patients over a period of several weeks until the facility
 21 reaches full capacity. Decl. Roberts ¶ 11, Attach. L at 7. Accounting for this safe and
 22 organized admission plan, the Department plans to reach its goal of opening 99 new
 23 competency beds by May 27, 2016. *Id.*

24 The Department is pursuing alternative contracted beds because of the enforcement
 25 action by CMS. The time necessary to execute this alternative plan has a clear and direct
 26 relationship to the change in factual circumstances created by the CMS enforcement actions.

Decl. Roberts ¶ 11, Attach. L. The Department is committed to addressing delays in competency services. Decl. Reyes ¶ 19. However, given the challenges facing the Department, as further detailed in the Department's monthly reports to the Court Monitor, the Department will not be able to comply with all aspects of the order by January 2, 2016. *Id.* The extension will allow time for the Department to safely open up beds at the Maple Lane facility and avoid any further impact on the environment of the state hospital. These beds allow the Department to meet the demand for competency restoration, as well as create the beds needed for admitting patients whose evaluations cannot be completed in seven days.

The Department is not challenging the Court's constitutional standard of seven days in this motion, and the modification requested by the Department is not an attempt to rehash the merits of this case. The request is narrow and related only to the significant changes in factual circumstances. This Court ordered the Department to come into compliance "as soon as is practicable." ECF No. 131, at 22. Because a significant change in factual circumstances has occurred, modification is required. *Agostini* 521 U.S. at 215. Given the change in factual circumstances and the record of diligent efforts, the Department now respectfully asks this Court to appropriately extend the compliance deadline in the injunction.

III. CONCLUSION

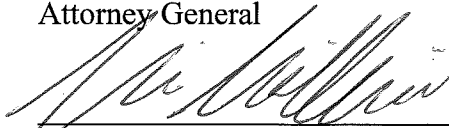
The injunction should be narrowly modified by extending the time allowed for the Department to come into compliance with this Court's order. The Department should be given additional time because there has been a significant change in factual conditions, modification will serve the public interest, and the request is narrowly tailored to address the change in circumstances. The suggested date of May 27, 2016, is directly related to the time necessary to complete opening the beds outlined in the Maple Lane plan and is a necessary modification to the Court's April 2, 2015 injunctive order.

//

//

1 RESPECTFULLY SUBMITTED this 30th day of December 2015.

2 ROBERT W. FERGUSON
3 Attorney General

4 
5 SARAH J. COATS, WSBA No. 20333
6 AMBER L. LEADERS, WSBA No. 44421
7 NICHOLAS A. WILLIAMSON, WSBA No. 44470
8 Office of the Attorney General
9 7141 Cleanwater Drive SW
10 P.O. Box 40124
11 Olympia, WA 98504-0124
12 (360) 586-6565
13 Sarahc@atg.wa.gov
14 Amberl1@atg.wa.gov
15 JohnM5@atg.wa.gov
16 NicholasW1@atg.wa.gov

17 *Attorneys for Defendants*
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

Beverly Cox, states and Declares as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 30th day of December, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF No. system, which will send notification of such filing to the following:

David Carlson: davidc@dr-wa.org

Emily Cooper: emilyc@dr-wa.org

Anna C. Guy: annag@dr-wa.org

Sarah A. Dunne: dunne@aclu-wa.org

Margaret Chen: mchen@aclu-wa.org

LaRond Baker: lbaker@aclu-wa.org

Anita Khandelwal: anitak@defender.org

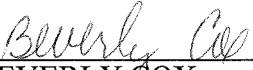
Christopher Carney: Christopher.Carney@cgilaw.com

Sean Gillespie: Sean.Gillespie@cgilaw.com

Kenan Isitt: Kenan.isitt@cgilaw.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 30th day of December, 2015 at Olympia, Washington.



BEVERLY COX
Legal Assistant

Office of the Attorney General
7141 Cleanwater Drive SW
PO Box 40124
Olympia, WA 98504-0124
(360) 586-6565